

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2618

SPONSOR: Health, Aging, and Long-Term Care Committee and Senator Saunders

SUBJECT: Health Regulation

DATE: April 9, 2003

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Munroe</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

The bill revises the regulation of respiratory care. In lieu of respiratory care licensure by examination procedures administered by the Florida Department of Health, the bill requires Florida licensure applicants to be registered as a Registered Respiratory Therapist (entry level) or certified as a Certified Respiratory Therapist (advanced level) by the National Board for Respiratory Care. Florida licensure requirements for respiratory care therapists will conform to the standards set by the National Board for Respiratory Care under the bill. The Florida Board of Respiratory Care will no longer approve educational programs for respiratory care. Definitions relating to respiratory care are revised to expand the scope of practice of respiratory care therapists to include additional modalities, such as: evaluation and disease management; administration of drugs as duly ordered or prescribed by a Florida-licensed allopathic or osteopathic physician and in accordance with protocols, policies, and procedures established by a hospital or other health care provider or the Board of Respiratory Care; cardiopulmonary resuscitation, advanced cardiac life support, neonatal resuscitation, and pediatric advanced life support or equivalent functions; performing sleep-disorder studies; education; and initiation and management of hyperbaric oxygen.

The bill eliminates the board's authority to issue temporary licenses to persons who are already licensed in another state as a respiratory care practitioner or respiratory therapist or who are eligible graduates of respiratory care programs to practice respiratory care in Florida.

The bill substantially revises the exemptions to the respiratory care practice act: by restricting an exemption for health care professionals to only those who are licensed; by eliminating an exemption for graduates of respiratory care education programs who hold temporary licenses; and by restricting an exemption for the delivery, assembly, setup, testing, and demonstration of oxygen aerosol, and intermittent positive pressure breathing equipment to an individual

employed to deliver, assemble, set up, or test equipment for use in the home. An exemption to the respiratory care practice act is created: for individuals performing polysomnography under medical direction, as related to the diagnosis and evaluation of treatment for sleep disorders; and for individuals credentialed in hyperbaric medicine by the Underseas Hyperbaric Society or its equivalent as determined by the Board of Respiratory Care.

This bill substantially amends sections 468.352, 468.355, and 468.368, Florida Statutes, and effective January 1, 2004, repeals sections 468.356 and 468.357, F.S.

## **II. Present Situation:**

### **Respiratory Therapy**

Part V, ch. 468, F.S., governs the practice of respiratory therapy. The part provides definitions and licensure requirements for respiratory care practitioners. Section 468.355, F.S., specifies licensure requirements for a person to become a certified respiratory therapist. To do so, a person must be at least 18 years old and possess a high school diploma or a graduate equivalency diploma. In addition, the applicant must meet at least one of the following criteria: (1) successful completion of a training program for respiratory therapy technicians or respiratory therapists approved by the Commission on Accreditation of Allied Health Education Programs, or the equivalent, as accepted by the Florida Board of Respiratory Care (board); (2) the applicant is currently a “Certified Respiratory Therapist” certified by the National Board for Respiratory Care, or its equivalent, as accepted by the board; (3) the applicant is currently a “Registered Respiratory Therapist” registered by the National Board for Respiratory Care, or its equivalent, as accepted by the board.

To become licensed as a registered respiratory therapist, an applicant must be at least 18 years old and possess a high school diploma or a graduate equivalency diploma. In addition, the applicant must meet at least one of the following criteria: (1) successful completion of a training program for registered respiratory therapists approved by the Commission on Accreditation of Allied Health Education Programs, or the equivalent, as accepted by the Florida Board of Respiratory Care; or (2) the applicant is currently a “Registered Respiratory Therapist” registered by the National Board for Respiratory Care, or its equivalent, as accepted by the board.

A Florida-licensed respiratory therapist may voluntarily be certified as a Certified Respiratory Therapist or registered as a Registered Respiratory Therapist pursuant to the requirements of the National Board for Respiratory Care. The National Board for Respiratory Care is a national organization recognized by the Council that provides voluntary certification for respiratory care practitioners, which is recognized under Florida licensure laws. The National Board for Respiratory Care currently offers five credentialing programs. These examinations include the: certification examination for entry level respiratory therapists for the designation of (CRT); and the registry examination for advanced respiratory therapy practitioners (RRT).

A Florida-licensed respiratory therapist delivers respiratory care services under the order of a Florida-licensed allopathic or osteopathic physician, and in accordance with protocols established by a hospital, other health care provider, or the Board of Respiratory Care, and who functions in situations of unsupervised patient contact requiring individual judgment. A licensed

respiratory care practitioner is employed to deliver respiratory care services under a Florida licensed allopathic or osteopathic physician, and in accordance with protocols established by a hospital, other health care provider, or the Florida Board of Respiratory Care. Under s. 468.355, F.S., the Florida Board of Respiratory Care must establish procedures for temporary licensure of eligible individuals entering Florida and temporary licensure of those persons who have graduated from a program approved by the Florida Board of Respiratory Care. The duration of such temporary licensure may not exceed 1 year.

Respiratory care education programs are accredited through the Committee on Accreditation for Respiratory Care (CoARC), previously the Joint Review Committee for Respiratory Therapy Education (JRCRTE). The Committee on Accreditation for Respiratory Care is responsible for assuring that respiratory therapy education programs comply with the standards adopted by the Commission on Accreditation of Allied Health Education Programs (CAAHEP). Its representatives visit respiratory therapy programs to evaluate applications for accreditation and perform periodic reviews.

The Committee on Accreditation for Respiratory Care has established new education standards that require all accredited education programs to award a minimum of an associate degree to all students who enroll beginning January 1, 2002. Persons seeking to qualify for the National Board for Respiratory Care's certification examination for the designation Certified Respiratory Therapist who enroll on or after January 1, 2002, must graduate from an entry or advanced level respiratory care program with a minimum of an associate degree. Any National Board for Respiratory Care certification applicants who have started or graduated from any respiratory care educational program or entered the credentialing system before January 1, 2002, will have until December 31, 2005, to complete the requirements for credentialing without having an associate degree.

Section 468.356, F.S., provides that the approval of educational programs must be in accordance with the Joint Review Committee for Respiratory Therapy Education through the Commission on Accreditation of Allied Health Education Programs, or other accrediting agency recognized by the United States Department of Education. The Board of Respiratory Care may require additional documentation of an intent to achieve full accreditation from any educational program that has not yet received full American Medical Association approval. The board may grant temporary approval for graduates of any program that has not yet achieved full accreditation so that such graduates may sit for the licensure examination.

Section 468.357, F.S., specifies procedures for licensure by examination of persons wishing to practice as certified respiratory therapists. To sit for the examination, the applicant must: complete the required forms and pay the required licensure fee set by the Florida Board of Respiratory Care; submit required documentation; and remit an examination fee set by the examination provider. Examinations for licensure of certified respiratory therapists administered by the Department of Health must be conducted no less than two times a year in a geographical location or method deemed advantageous to the majority of applicants. The licensure examination for certified respiratory therapists must be the same as that given by the National Board for Respiratory Care for entry-level certification of respiratory therapists. The Department of Health must issue a license to any applicant who successfully completes the examination who otherwise qualifies for licensure as a certified respiratory therapist.

The Florida Board of Respiratory Care must prescribe by rule continuing education requirements for respiratory care practitioners and respiratory therapists to meet as a condition for their biennial license renewal. The board must approve continuing education courses and providers of continuing education.

Section 468.368, F.S., specifies exemptions to respiratory care licensure requirements for certain persons including: medical personnel who have been formally trained in modalities used for the delivery of respiratory care services and who are duly licensed or have credentials pertaining to their respective professions; cardiopulmonary testing by individuals who have credentials by the National Board for Respiratory Care as Certified Pulmonary Function Technologists, or individuals who are employed by health care facilities and who are eligible and have applied for that credential; students enrolled in the educational program of any health care profession; gratuitous care of an ill person by a friend or family member who does not hold himself or herself out as a respiratory care practitioner or respiratory therapist; an individual providing respiratory care in an emergency who does not hold himself or herself out as a respiratory care practitioner or respiratory therapist; a person employed in the office of, and who is working under the direct supervision and control of a Florida-licensed allopathic or osteopathic physician; a student who has demonstrated enrollment in the clinical portion of an approved respiratory care educational program to the board and who is employed by a health care facility and who is delivering limited respiratory care support services under the supervision of a licensed respiratory care practitioner or a respiratory care therapist; a graduate of an approved respiratory care educational program who has applied to the board for temporary licensure under s. 468.355, F.S.; a person involved in the delivery, assembly, setup, testing, and demonstration of oxygen, aerosol, and intermittent positive pressure breathing equipment for use in the home upon order of a Florida-licensed allopathic or osteopathic physician; and a surrogate family member who delivers incidental respiratory care of sick or disabled noninstitutionalized persons as long as such person does not hold himself or herself out as a respiratory care practitioner or respiratory therapist.

Section 468.366, F.S., provides criminal offenses under part V, ch. 468, F.S. (the respiratory care practice act). It is a violation of law for any person, including any firm, association, or corporation: to deliver respiratory care services, as defined by part V, ch. 468, F.S., or by rule of the board, unless such person is duly licensed to do so under the part or unless such person is exempted under s. 468.368, F.S.; and to knowingly employ unlicensed persons in the delivery of respiratory care services, unless exempted by part V, ch. 468, F.S. Such violations constitute a third degree felony punishable by imprisonment up to 5 years and imposition of a fine up to \$5,000.

### III. Effect of Proposed Changes:

**Section 1.** Substantially rewords s. 468.352, F.S., relating to definitions for the regulation of respiratory care, to revise the definition of the various terms. “Critical care” is redefined to mean care given to a patient in any setting involving a life-threatening emergency. “Direct supervision” is redefined to mean supervision under the direction of a licensed, registered, or certified respiratory therapist who is physically on the premises and readily available, as defined by the board. The definition in current law for “noncritical care” is eliminated. The term,

“physician supervision” (currently defined as “direct supervision”) is defined to mean supervision and control by a licensed allopathic or osteopathic physician who assumes legal liability for the services rendered by the personnel employed in his or her office.

“Certified respiratory therapist” is redefined to mean any person licensed under part V, ch. 468, F.S., who is certified by the National Board for Respiratory Care or its successor, who is employed to deliver respiratory care services, under the order of a Florida-licensed allopathic or osteopathic physician in accordance with protocols established by a hospital or other health care provider or the Board of Respiratory Care, and who functions in situations of unsupervised patient contact requiring individual judgment. “Registered respiratory therapist” is redefined to mean any person licensed under this part who is registered by the National Board for Respiratory Care or its successor, and who is employed to deliver respiratory care services under the order of a Florida-licensed allopathic or osteopathic physician in accordance with protocols established by a hospital or other health care provider or the Board of Respiratory Care, and who functions in situations of unsupervised patient contact requiring individual judgment.

The “practice of respiratory care” or “respiratory therapy” is defined to mean the allied health specialty associated with the cardiopulmonary system that is practiced under the orders of a Florida-licensed allopathic or osteopathic physician and in accordance with protocols, policies, and procedures established by a hospital or other health care provider or the Board of Respiratory Care. “Respiratory care practitioner” is defined to mean any person licensed under part V, ch. 468, F.S., to deliver respiratory care services under direct supervision and pursuant to an order of a Florida-licensed allopathic or osteopathic physician.

The definition of “respiratory care services” is revised to include evaluation and disease management; diagnostic and therapeutic use of respiratory equipment, devices, or medical gas; administration of drugs, as duly ordered or prescribed by a Florida-licensed allopathic or osteopathic physician and in accordance with protocols, policies, and procedures established by a hospital or other health care provider or the Board of Respiratory Care; initiation, management, and maintenance of equipment to assist and support ventilation and respiration; diagnostic procedures, research, and therapeutic treatment and procedures; cardiopulmonary resuscitation; advanced cardiac life support, neonatal resuscitation, and pediatric advanced life support, or equivalent functions; insertion and maintenance of artificial airways and intravascular catheters; performing sleep-disorder studies; education; and the initiation and management of hyperbaric oxygen.

**Section 2.** Substantially rewords s. 468.355, F.S., relating to eligibility for respiratory care licensure and temporary licensure, to revise licensure requirements for respiratory therapists. To be eligible for licensure as a respiratory therapist an applicant must be certified as a “Certified Respiratory Therapist” or registered as a “Registered Respiratory Therapist” by the National Board for Respiratory Care, or its successor.

**Section 3.** Substantially rewords s. 468.368, F.S., relating to exemptions to respiratory care regulation for certain persons, to substantially revise the exemptions. Under the revised exemptions to respiratory care regulation, the regulation may not be construed to prevent or restrict the practice, service, or activities of: any person licensed in Florida by any other law from engaging in the profession or occupation for which he or she is licensed; any legally qualified

person in Florida or another state or territory who is employed by the United States government while such person is discharging his or her official duties; a friend or family member who is providing respiratory care services to an ill person and who does not represent himself or herself to be a respiratory care practitioner or respiratory therapist; an individual providing respiratory care services in an emergency who does not represent himself or herself as a respiratory care practitioner or respiratory therapist; any individual employed to deliver, assemble, set up, or test equipment for use in a home, upon the order of a Florida-licensed allopathic or osteopathic physician; any individual performing polysomnography under medical direction who is involved in the diagnosis and evaluation of treatment for sleep disorders; any individual certified or registered as a pulmonary function technologist who is credentialed by the National Board for Respiratory Care for performing cardiopulmonary diagnostic studies; any student who is enrolled in an accredited respiratory care program approved by the Florida Board of Respiratory Care, while performing respiratory care as an integral part of a required course; the delivery of incidental respiratory care to noninstitutionalized persons by surrogate family members who do not represent themselves as registered or certified respiratory care therapists; and any individual credentialed in hyperbaric medicine by the Underseas Hyperbaric Society, or its equivalent as determined by the Florida Board of Respiratory Care, while performing related duties.

**Section 4.** Effective, January 1, 2004, repeals section 468.356, F.S., which provides requirements for the approval of respiratory care therapy educational programs and repeals s. 468.357, F.S., which specifies procedures for the licensure by examination of persons wishing to practice as certified respiratory therapists.

**Section 5.** Provides that except as otherwise expressly provided in this act, this act takes effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, s. 18 of the Florida Constitution.

##### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

##### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Persons who are already licensed in another state or eligible graduates of respiratory care programs will no longer be able to obtain temporary licenses to practice in Florida. To practice respiratory care in Florida, such persons will incur costs to meet the requirements for Florida licensure as a respiratory therapist.

**C. Government Sector Impact:**

The Department of Health will incur minimal costs to revise existing administrative rules for the Board of Respiratory Care.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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